

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION**

**TENTATIVE CEASE AND DESIST
ORDER NO. R9-2003-0086**

**AGAINST THE CITY OF SAN DIEGO
FOR THE SAN DIEGO CONVENTION CENTER
GROUNDWATER EXTRACTION
DISCHARGE TO SAN DIEGO BAY
TO
ESTABLISH COMPLIANCE WITH
WASTE DISCHARGE REQUIREMENTS ORDER NO. R9-2003-0050
NPDES NO. CA0109029**

The California Regional Water Quality Control Board, San Diego Region, (hereinafter Regional Board) finds that:

1. The City of San Diego discharges up to a maximum of 1.0 million gallons per day of extracted groundwater from the San Diego Convention Center (Convention Center) through a 36-inch outfall located approximately 246 feet off shore of the convention center at a depth of approximately 35 feet (MSL) in San Diego Bay. This discharge is regulated by waste discharge requirements contained in Order No. R9-2003-0050 (NPDES No. CA0109029), which superseded general requirements for dewatering discharges in Order No. R9-2000-0090 (NPDES No. CAG919001) on March 12, 2003.
2. The discharges by the City of San Diego of extracted groundwater from the vicinity of the Convention Center to San Diego Bay have been consistently in violation of effluent limitations in Order No. R9-2000-0090 for toxicity since April 10, 2001 and for copper since December 31, 2001.
3. The City of San Diego constructed a submerged outfall and installed carbon adsorption units in 2001 in an unsuccessful attempt to eliminate the violations of Order R9-2000-0090.
4. The City of San Diego's discharge from the Convention Center will continue to violate effluent limits for copper and toxicity established in R9-2000-0090 and R9-2003-0050 because the City has not implemented additional treatment or an alternative method to dispose of the effluent that would reduce the toxicity of, or concentration of copper in, the extracted groundwater.
5. ~~The City of San Diego has been negligent about not seeking out~~ Despite recurring violations over the many years, the City of San Diego has failed to develop and implement reasonable solutions to the violations of Order No. R9-2000-0090. The City of San Diego has not demonstrated if alternative treatments or disposal technologies are

available and reasonably feasible to can achieve compliance with effluent limits. The City of San Diego has not presented a schedule that describes a reasonable period for a comprehensive toxicity identification or reduction evaluation to be performed. Currently the only practicable manner of compliance would be re-directing the effluent to a different discharge location, e.g., sanitary sewer, or percolation or re-injection to a basin without sensitive beneficial uses.

6. ~~The Regional Board in connection with an action relating to a requirement authorized by Division 7 of the California Water Code may investigate the quality of San Diego Bay and the ground water near San Diego Bay.~~ The City of San Diego has ~~indicated not provided documentation supporting its contention~~ that the costs of diverting the effluent discharge from the ground water near San Diego Bay, from San Diego Bay to the sanitary sewer, are unreasonable for the impacts caused by this type of discharge. ~~However, the City of San Diego has not provided the data to support this argument.~~
7. The City of San Diego may propose schedules for various compliance alternatives and information on pollutant reduction capabilities of various compliance alternatives; however, the Regional Board will be setting all compliance dates and if deemed appropriate, establish interim limits while the City of San Diego is working towards achieving compliance with this Order.
8. The Regional Board has notified all known interested parties of this enforcement proceeding for the consideration of the issuance of a Cease and Desist Order addressing chronic and persistent effluent limit violations (Tentative CDO No. R9-2003-0086). The Regional Board, in a public hearing on March 12, 2003, heard comments pertaining to the issuance of CDO No. R9-2003-0086 and considered all comments received during the public comment period prior to the adoption of this Cease and Desist Order.
9. This enforcement action is exempt from the provisions of the California Environmental Quality Act (CEQA) in accordance with Section 15321 (Enforcement Actions by Regulatory Agencies), Chapter 3, Title 14 of the California Code of Regulations.

IT IS HEREBY ORDERED, that pursuant to California Water Code Section 13267 and 13301 the City of San Diego shall comply with the following directives:

1. The City of San Diego shall cease violations of the effluent limitations and waste discharge requirements contained in Order No. R9-2003-0050 no later than **December 31, 2003**.
2. The City of San Diego shall submit a technical report consisting of "*Estimated Cost*" to the Regional Board on or before **April 9, 2003**. The technical report shall contain

information on how much it would cost to send all or a portion of the discharge to the sanitary sewer using one, two, three, or all four of the sumps beneath the Convention Center. The technical report shall contain an itemization of the total costs and the necessary financial documents to support the cost, set forth in the report. The Technical report shall contain various cost analyses based on diverting the total and partial effluent flows to the sanitary sewer.

3. The City of San Diego shall submit a technical report consisting of a “remedial action work plan” to the Regional Board on or before **May 14, 2003**. The technical report shall ~~(4)~~ outline the actions the City of San Diego plans to take to come into compliance with Order No. R9-2003-0050. The technical report shall ~~(2)~~ contain ~~a section on~~ proposed schedules for various compliance alternatives and information on pollutant reduction capabilities of ~~various each~~ compliance alternatives with supporting documentation. The technical reports shall ~~(3) also contain a systems engineering section that~~ evaluates the current and alternative methods of treatment and disposal to prevent the violation of Order No. R9-2003-0050. The systems engineering section of the technical report shall address the following components:
 - **Unmet needs statement** – A general statement indicating that the City of San Diego is required to reduce the toxicity of, and concentration of copper in, discharges of extracted groundwater from the Convention Center to levels consistent with the effluent limits in Order No. R9-2003-0050 and in general to prevent waste discharges to the Bay from the Convention Center in violation of Order No. R9-2003-0050.
 - **Feasibility study** – An in-depth investigation of the problem including desired and undesired inputs and outputs, design parameters, and constraints resulting in a detailed problem statement. Resulting in a *Set of Feasible Solutions*.
 - **Preliminary design** – Solutions designed in detail. Resulting in an *Optimal Design of Particular Concepts*.
 - **Comparative analysis** – Alternatives compared to projected performance. Possible design and implementation of models, pilot projects, or prototypes. Resulting in one or more solutions to choose for a full detailed design, *Optimal System Design*.
 - **Detailed Design**. – A full set of blue prints, etc. is developed. Resulting in a *Complete Description* for implementation.
 - **Planning for production** – Plans are developed for the actual construction assembly, and marketing of the solution.
4. If the most expeditious schedule for implementation of remedial action work plan would not achieve compliance by December 31, 2003, the City of San Diego shall request a

hearing for the Regional Board to consider an extension of deadline in Directive No. 1 of this Order.

PROVISIONS

1. Nothing in this Order shall be construed to relieve the City of San Diego from civil liability or criminal penalties resulting from violations of Order No. R9-2003-0050, NPDES Permit No. CA0109029, as renewed or revised, or this Cease and Desist Order, nor shall it relieve the City of San Diego from civil liability or criminal penalties from previous violations of Order No. R9-2000-0090.
2. This Cease and Desist Order becomes effective on the date of adoption by the Regional Board.

I, John H. Robertus, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board on March 12, 2003.

TENTATIVE

JOHN H. ROBERTUS
Executive Officer